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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,632	06/27/2003	Scott A. Hareland	42P15677	8724

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Michael A. Bernadicou
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER

PHAM, HOAI V

ART UNIT PAPER NUMBER

2814

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,632

Applicant(s)

HARELAND ET AL.

Examiner

Hoai V Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 17-29 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-16 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/3/04; 5/3/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-16 in the reply filed on May 3, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

2. Claims 8, 10-11, 14, and 16 are objected to because of the following informalities:

Claim 8, line 1, "semiconductor is" should be changed to --semiconductor body is--.

Claim 10, line 1, "The method" should be changed to --The tri-gate transistor--.

Claim 11, line 1, "The semiconductor device" should be changed to --The tri-gate transistor--.

Claim 14, line 1, "The tri-gate device" should be changed to --The tri-gate transistor--.

Claim 16, line 1, "The method" should be changed to --The tri-gate transistor--.

Appropriate correction is required.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-4 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu [U.S. Pat. 6,475,869] Applicant IDS.

Yu (figs. 1-8, cols. 2-6) discloses a semiconductor device comprising:

a semiconductor body (16) having a top surface and laterally opposite sidewalls formed on a substrate (18);

a gate dielectric (34) formed on said top surface of said semiconductor body and on said laterally opposite sidewalls of said semiconductor body;

a gate electrode (36) formed on said gate dielectric on said top surface of said semiconductor body and adjacent to said gate dielectric on said laterally opposite sidewalls of said semiconductor body; and

a film (38) formed adjacent to said semiconductor body wherein said film produces a stress in said semiconductor body.

With respect to claims 3-4, Yu discloses that the film (38) produces a tensile stress in said semiconductor body (see col. 2, lines 25-30).

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With respect to claim 7, Yu discloses that the semiconductor body (16) is a single crystalline silicon film (see col. 4, lines 8-10).

With respect to claim 8, Yu discloses that the semiconductor is selected from the group consisting of silicon (see col. 4, lines 8-10).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu [U.S. Pat. 6,475,869] Applicant IDS, in view of Maszara [U.S. Pat. 6,680,240].

Yu substantially discloses all the limitations as claimed above except the film (38) comprises silicon nitride having a compressive stress. However, Maszara discloses the

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film (24) can be formed of silicon nitride with different type of stress, such as compressive stress (see col. 3, lines 40-55). Therefore, it would have been obvious to one of ordinary skill in the art to select silicon nitride as known materials, as taught by Maszara, into the device of Yu for forming the film adjacent to the semiconductor body to induce a net amount of strain in the semiconductor body (see col. 2, lines 58-63) . Moreover, selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

Allowable Subject Matter

8. Claims 9-16 are allowed.

9. The following is an examiner's statement of reasons for allowance: the prior of record fails to disclose the combination of a semiconductor device structure recited in the base claim 9, including the combination of the structure comprising: a stress induced film formed around said silicon body and said gate electrode, said film providing stress in the channel region of said device.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V Pham whose telephone number is 571-272-1715. The examiner can normally be reached on 9:30A.M. - 8:00P.M..

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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Hoai Pham', with a long horizontal flourish extending to the right.

Hoai Pham
Patent Examiner